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15 *Consumer Products, L.L.C., Toshiba America*
16 *Electronic Components, Inc., and Toshiba*
17 *America Information Systems, Inc.*

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19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 (SAN FRANCISCO DIVISION)

22 IN RE: CATHODE RAY TUBE (CRT)
23 ANTITRUST LITIGATION

24 Case No. 07-cv-05944 SC
25 MDL No. 1917

26 This Document Relates to
27 Case No. C 13-1173 SC (N.D. Cal.)

28 SHARP ELECTRONICS CORPORATION;
29 SHARP ELECTRONICS MANUFACTURING
30 COMPANY OF AMERICA, INC.,

31 Plaintiffs,

32 v.

33 HITACHI, LTD.; *et al.*,

34 Defendants.

**DECLARATION OF DANA E.
FOSTER IN SUPPORT OF SHARP'S
ADMINISTRATIVE MOTION TO
FILE DOCUMENTS RELATED TO
SHARP'S MOTION TO COMPEL
UNDER SEAL PURSUANT TO CIVIL
LOCAL RULES 7-11 AND
79-5(b)**

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36 DECLARATION OF DANA E. FOSTER IN SUPPORT OF SHARP'S
37 ADMINISTRATIVE MOTION TO FILE DOCUMENTS RELATED TO SHARP'S
38 MOTION TO COMPEL UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 7-11 AND 79-5(b)

39 Case No. 07-5944 SC, MDL No. 1917

1 I, Dana E. Foster, hereby declare as follows:

2 1. I am an attorney with the law firm of White & Case LLP, attorneys for
3 Defendants Toshiba Corporation, Toshiba America, Inc., Toshiba America Consumer
4 Products, L.L.C., Toshiba America Electronic Components, Inc. ("TAEC"), and Toshiba
5 America Information Systems, Inc. (collectively, the "Toshiba Defendants"). I make this
6 declaration in support of Sharp's Administrative Motion to File Documents Related to
7 Sharp's Motion to Compel Under Seal Pursuant to Civil Local Rules 7-11 and 79-5(b)
8 (Dkt. No. 2243) (the "Motion to Seal").

9 2. Except for those matters stated on information and belief, which I believe to be
10 true, I have personal knowledge of the facts set forth herein and, if called upon, could and
11 would competently testify thereto under oath.

12 3. On June 18, 2008, the Court issued a Stipulated Protective Order (Dkt. No.
13 306) (the "Stipulated Protective Order").

14 4. The Toshiba Defendants have produced in this action certain documents and
15 information designated as "Confidential" pursuant to the Stipulated Protective Order.

16 5. On December 3, 2013, Sharp filed the Motion to Seal, and lodged
17 conditionally under seal, pursuant to Civil Local Rules 7-11 and 79-5(d), documents and
18 portions of documents containing information designated "Confidential":

- 19 a. Sharp's Motion to Compel Discovery Responses (the "Motion to
20 Compel"); and
- 21 b. Exhibits C, D, E, and K to the Declaration of Craig A. Benson in Support
22 of Sharp's Motion to Compel ("Benson Decl.");

23 6. On December 3, 2013, Sharp filed the Benson Decl. (Dkt. No. 2243-1) which
24 states that the documents identified in Paragraph 5(b) have been designated "Confidential"
25 or "Highly Confidential" by the Toshiba Defendants and other defendants, and that the
26 redacted portions of Sharp's Motion to Compel refer to, or contain excerpts from,
27 documents that Defendants have designated as "Confidential" under the Stipulated
28 Protective Order.

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7. Pursuant to Civil Local Rules 7-11 and 79-5, and the Stipulated Protective Order, the following documents or redacted portions of documents, should be maintained under seal:

- a. The numerous redacted paragraphs of Sharp’s Motion to Compel that refer to, or contain excerpts from, documents that the Toshiba Defendants have designated “Confidential”;
 - b. Exhibit C to the Benson Decl. which is a copy of Toshiba Corporation’s Supplemental Objections and Responses to Interrogatory Nos. Four and Five of Direct Purchaser Plaintiffs’ First Set of Interrogatories, which Toshiba Corp. has designated “Confidential”; and
 - c. Exhibit D to the Benson Decl. which is a copy of Toshiba America Electronic Components, Inc.’s Supplemental Objections and Responses to Interrogatory Nos. Four and Five of Direct Purchaser Plaintiffs’ First Set of Interrogatories, which TAEC has designated “Confidential.”

8. Each of the documents listed in Paragraph 7 consist of, quote from, and/or contain confidential, non-public, proprietary and highly sensitive business information. The documents contain confidential, non-public information about the Toshiba Defendants' sales practices, business and supply agreements, and competitive positions. The documents describe relationships with companies — including customers and vendors — that remain important to the Toshiba Defendants' competitive positions. Upon information and belief, publicly disclosing this sensitive information presents a risk of undermining the Toshiba Defendants' relationships, would cause harm with respect to the Toshiba Defendants' competitors and customers, and would put the Toshiba Defendants at a competitive disadvantage.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Executed this 10th day of December, 2013, in Washington, D.C.

Dana E. Foster

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CERTIFICATE OF SERVICE

On December 10, 2013, I caused a copy of “DECLARATION OF DANA E. FOSTER IN SUPPORT OF SHARP’S ADMINISTRATIVE MOTION TO FILE DOCUMENTS RELATED TO SHARP’S MOTION TO COMPEL UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 7-11 AND 79-5(b)” to be electronically filed via the Court’s Electronic Case Filing System, which constitutes service in this action pursuant to the Court’s order of September 29, 2008.



Don E. Foster

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